248; *Fuller* v. *Bilz*, 161 Mich. 589, 126 N. W. 712; *Cobb* v. *Davenport*, 32 N. J. L. 369; *Hinckley* v. *Peay*, 22 Utah, 21, 60 Pac. 1012. *Cf. Gouverneur* v. *National Ice Co.*, *supra*, with *Geneva* v. *Henson*, 140 App. Div. 49, 124 N. Y. Supp. 588. Other states reserve title only in the case of non-navigable lakes. *Broward* v. *Mabry*, 59 Fla. 398, 50 So. 826; *Lamprey* v. *State*, 52 Minn. 101, 53 N. W. 1139; *Conneaut Lake Ice Co.* v. *Quigley*, 225 Pa. 605, 74 Atl. 648. *Cf. Webster* v. *Harris*, 111 Tenn. 668, 69 S. W. 782. The rights of the public would be sufficiently protected if riparian owners held in fee lake beds subject to a public easement to the use of the waters. Such is the rule in Michigan. *People* v. *Horling*, 137 Mich. 406, 100 N. W. 691.

DOMICILE — RIGHT OF AN INFANT ORPHAN TO CHOOSE. — The plaintiff was born in Massachusetts and resided there with his parents. When eight years old he was hurt by the defendant railroad and suit was started in a Massachusetts court. Then his parents died, and at the age of nineteen he moved to Maine to live with an aunt. At the age of twenty the plaintiff sued the defendant, a Massachusetts corporation in a federal court on the ground of diversity of citizenship. *Held*, the plaintiff was domiciled in Maine. *Bjornquist* v. *Boston & A. R. Co.*, 250 Fed. 929.

The domicile of an infant orphan is the domicile of the last surviving parent and cannot ordinarily be changed by any act of the infant. *Ex parte Dawson*, 3 Bradf. (N. Y.) 130; *In re Henning*, 128 Cal. 214, 60 Pac. 762; *In re Benton*, 92 Ia. 202, 60 N. W. 614; *Vennard's Succession*, 44 La. Ann. 1076, 11 So. 705. The reason is, "a person who is under the power and authority of another possesses no right to choose a domicile." See STORY, CONFLICT OF LAWS, 41. And so grandparents — but no others — who are regarded as natural parents with control of an infant orphan, have been allowed to change the domicile of the infant. *In re Benton*, 92 Ia. 202, 60 N. W. 614; *Kirkland* v. *Whateley*, 86 Mass. 462; *Mintzer's Estate*, 2 Pa. Dist. R. 584. There is not, however, this identity of domicile where the guardian is not a natural but an appointed one, since he has no right to change the domicile of the orphan outside the state of appointment. *Daniel* v. *Hill*, 52 Ala. 430; *Lamar* v. *Micou*, 112 U. S. 452. Where an infant has been emancipated by his parents he has been held able to change his own domicile. *Russell* v. *State*, 62 Neb. 512, 87 N. W. 344. See 19 HARV. L. REV. 215. To prove emancipation it is necessary only to show that by circumstances the infant has been freed from his father's control. *Sword* v. *Keith*, 31 Mich. 247; *Jacobs* v. *Jacobs*, 130 Ia. 10, 104 N. W. 489; *Bristor* v. *Chicago & N. W. R. R.*, 128 Ia. 479, 104 N. W. 487; *West Gardiner* v. *Manchester*, 72 Me. 509. An infant orphan who has reached an age of discretion and is without grandparents or guardian should be regarded as emancipated by circumstances, since he is under the control of no one. Being emancipated, he is then capable of choosing his own domicile and the principal case is clearly right.

ELECTIONS — NOTICE TO NONRESIDENT VOTERS — RIGHT TO VOTE. — The Constitution of New Jersey allows voters engaged in military service outside the election district to vote. Pursuant to this authority, a statute provides the method by which such voters shall be notified of impending elections. ACT FEB. 28, 1918, §§ 4–6, 9, P. L. 437. A special election on the liquor question was held in which these statutory requirements as to notice were not complied with, and the number of voters thereby disfranchised was sufficient to have changed the result. *Held*, that the election be set aside. *In re Holman*, 104 Atl. 212 (N. J.).

Where the time and place of an election are designated by law, statutory provisions as to the notice which must be given voters are construed to be merely directory. *Commonwealth* v. *Kelly*, 255 Pa. 475, 100 Atl. 272; *Kleist*

v. *Donald*, 164 Wis. 545, 160 N. W. 1067. See 17 HARV. L. REV. 191. But where the time or place are not prescribed by law, so that notice is essential for that purpose, such provisions are generally regarded as mandatory. *State* v. *Staley*, 90 Kan. 624, 135 Pac. 602; *Staples* v. *Astoria*, 81 Or. 99, 158 Pac. 518. See McCRARY, ELECTIONS, 4 ed., §§ 182–185. In either case, however, the better view is that failure to give notice will not render the election void unless the number of voters deprived of a chance to vote was sufficiently large to have changed the result. *Lyon* v. *Smith*, Cl. & H. 101; *State* v. *McFarland*, 98 Neb. 854, 154 N. W. 719; *Hill* v. *Skinner*, 169 N. C. 405, 86 S. E. 351. Since, in the principal case, the number of absent voters in the military service who received no notice of the special election was sufficient to have changed the result, the election was properly set aside. In a *dictum*, however, the court says that the right to vote inheres in citizenship and is guaranteed by the Constitution. But participation in the suffrage is not a right; it is a privilege, the exercise of which is dependent upon the will of the state. *Anderson* v. *Baker*, 23 Md. 531; *People* v. *Barber*, 48 Hun (N. Y.) 198. See COOLEY, PRINCIPLES OF CONSTITUTIONAL LAW, 2 ed., 259. Accordingly, the suffrage is not within the privileges and immunities guaranteed by the Constitution. *Minor* v. *Happersett*, 21 Wall. 162; *Govgar* v. *Timberlake*, 148 Ind. 38, 46 N. E. 339. See 2 STORY, CONSTITUTION, 5 ed., § 1932.

EQUITY — NEGATIVE COVENANTS — UNIQUE PERSONAL SERVICE — DOCTRINE OF LUMLEY *VERSUS* WAGNER. — The defendant entered into an exclusive contract to serve as an editorial writer, and covenanted not to write for any publication in competition with the plaintiff during the term. Before expiration of the contract he left the plaintiff's employ and began to write for a competitor. It appeared that plaintiff had spent over $40,000 in exploiting the defendant and that he occupied a unique position among writers upon the war. *Held*, injunction allowed. *Tribune Association* v. *Simonds*, 104 Atl. 386 (N. J.).

The case is chiefly interesting as showing the settled adherence of American courts to the doctrine of *Lumley* v. *Wagner*, in cases of unique service or unique servants. *Lumley* v. *Wagner*, 1 De Gex, M. & G. 604. But the large expenditure made by plaintiff in exploiting defendant for the purpose of rendering his services as a writer more valuable suggests a further question. If the master has given the servant an exceptional value for the purposes of the service in reliance upon the contract, would not the grave injury to him involved in the loss of this expenditure in case of breach, and the accrual of the benefit thereof to a competitor, suffice to overcome the practical difficulties involved in enforcement of negative covenants in such cases and justify an injunction although many other servants of equal intrinsic capacity might be available? After all the significance of unique service, or unique qualifications in the servant, lies in the grave hardship to the plaintiff involved in such cases. Other exceptional cases of grave hardship should not be treated on a different basis.

FEDERAL COURTS — RELATIONS OF STATE AND FEDERAL COURTS — EFFECT OF STATE STATUTE GIVING COURTS OF GENERAL CIVIL JURISDICTION PROBATE POWERS. — A nonresident filed a *caveat* to proceedings for the probate of a will in the Georgia courts. An application by him to remove the case to the United States courts was denied, and in accordance with a state statute allowing appeals from any decision of the ordinary, the case was taken to the Superior Court without an adjudication on the will. Subsequently, the record in the case was brought into the federal court under the rule allowing a petition for removal to be filed in spite of an adverse decision by the state court. *Held*, that the case be remanded to the state court. *Meadow* v. *Nash*, 250 Fed. 911.